

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

VARIANT HOLDINGS, LLC
AND VARIANT, INC.

PLAINTIFFS,

v.

NO. _____

HILTON HOTELS HOLDINGS LLC; ACCOR NORTH AMERICA, INC. D/B/A MOTEL 6 D/B/A STUDIO 6 D/B/A NOVOTEL HOTELS; ALAMO RENT A CAR, LLC; BAYMONT FRANCHISE SYSTEMS, INC. D/B/A BAYMONT INN & SUITES; BENCHMARK HOSPITALITY INTERNATIONAL D/B/A HOTEL CONTESSA; DAYS INNS WORLDWIDE, INC.; DOLLAR RENT A CAR, INC.; DOLLAR THRIFTY AUTOMOTIVE GROUP, INC.; ENTERPRISE HOLDINGS, INC.; ENTERPRISE RENT-A-CAR CO.; FERTITTA HOSPITALITY, INC. D/B/A HILTON GALVESTON ISLAND RESORT; HAWTHORN SUITES FRANCHISING, INC.; HILTON GOLBAL HOLDINGS LLC; HILTON WORLDWIDE HOLDINGS, INC.; HILTON WORLDWIDE, INC. F/K/A HILTON HOTELS CORP. D/B/A CONRAD HOTELS & RESORTS D/B/A DOUBLETREE BY HILTON D/B/A EMBASSY SUITES HOTELS D/B/A HAMPTON INN D/B/A HAMPTON INN & SUITES D/B/A HILTON HOTELS & RESORTS D/B/A HILTON GARDEN INN D/B/A HOME2 SUITES BY HILTON D/B/A HOMEWOOD SUITES BY HILTON D/B/A WALDORF ASTORIA HOTELS & RESORTS D/B/A HILTON GRAND VACATIONS; HOWARD JOHNSON INTERNATIONAL, INC.; HYATT CORPORATION; HYATT HOTELS CORPORATION D/B/A PARK HYATT D/B/A ANDAZ D/B/A GRAND HYATT HOTELS D/B/A HYATT REGENCY HOTELS D/B/A HYATT SUMMERFIELD SUITES D/B/A HYATT RESORTS D/B/A HYATT VACATION CLUB; HYATT HOTELS MANAGEMENT CORPORATION; HYATT PLACE FRANCHISING, L.L.C.; KNIGHTS FRANCHISE SYSTEMS, INC. D/B/A KNIGHTS INN; MICROTEL INNS AND SUITES FRANCHISING, INC. D/B/A MICROTEL INN & SUITES; NATIONAL CAR

RENTAL SYSTEM, INC.; NORTH AMERICA SOFITEL CORP.; OMNI HOTELS CORP.; PAYLESS RENTAL CAR SYSTEM, INC.; RAMADA WORLDWIDE INC.; RED LION HOTELS CORP.; RED LION HOTELS HOLDINGS, INC.; RED LION HOTELS MANAGEMENT, INC.; RED LION PROPERTIES, INC.; SELECT HOTELS GROUP, L.L.C D/B/A HYATT PLACE; SUPER 8 WORLDWIDE, INC.; THRIFTY, INC. D/B/A THRIFTY CAR RENTAL; TRAVELODGE HOTELS, INC.; TRT DEVELOPMENT CO.; TRT HOLDINGS, INC.; TRYP HOTELS WORLDWIDE, INC.; U.S. FRANCHISE SYSTEMS, INC.; VANGUARD CAR RENTAL USA, LLC D/B/A ALAMA RENT A CAR D/B/A NATIONAL CAR RENTAL; WESTHEIMER HOTEL LP D/B/A HOTEL DEREK; WINGATE INNS INTERNATIONAL, INC.; WYNDHAM HOTEL GROUP, LLC; WYNDHAM HOTELS AND RESORTS, LLC; WYNDHAM VACATION RESORTS, INC. and WYNDHAM WORLDWIDE CORP.

DEFENDANTS.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs VARIANT HOLDINGS, LLC and VARIANT, INC. file this Complaint against the Defendants named herein, namely HILTON HOTELS HOLDINGS LLC; ACCOR NORTH AMERICA, INC. D/B/A MOTEL 6 D/B/A STUDIO 6 D/B/A NOVOTEL HOTELS; ALAMO RENT A CAR, LLC; BAYMONT FRANCHISE SYSTEMS, INC. D/B/A BAYMONT INN & SUITES; BENCHMARK HOSPITALITY INTERNATIONAL D/B/A HOTEL CONTESSA; DAYS INNS WORLDWIDE, INC.; DOLLAR RENT A CAR, INC.; DOLLAR THRIFTY AUTOMOTIVE GROUP, INC.; ENTERPRISE HOLDINGS, INC.; ENTERPRISE RENT-A-CAR CO.; FERTITTA HOSPITALITY, INC. D/B/A HILTON GALVESTON ISLAND RESORT; HAWTHORN SUITES FRANCHISING, INC.; HILTON GOLBAL HOLDINGS LLC; HILTON WORLDWIDE HOLDINGS, INC.; HILTON WORLDWIDE, INC. F/K/A HILTON HOTELS CORP. D/B/A CONRAD HOTELS & RESORTS D/B/A DOUBLETREE

BY HILTON D/B/A EMBASSY SUITES HOTELS D/B/A HAMPTON INN D/B/A HAMPTON INN & SUITES D/B/A HILTON HOTELS & RESORTS D/B/A HILTON GARDEN INN D/B/A HOME2 SUITES BY HILTON D/B/A HOMEWOOD SUITES BY HILTON D/B/A WALDORF ASTORIA HOTELS & RESORTS D/B/A HILTON GRAND VACATIONS; HOWARD JOHNSON INTERNATIONAL, INC.; HYATT CORPORATION; HYATT HOTELS CORPORATION D/B/A PARK HYATT D/B/A ANDAZ D/B/A GRAND HYATT HOTELS D/B/A HYATT REGENCY HOTELS D/B/A HYATT SUMMERFIELD SUITES D/B/A HYATT RESORTS D/B/A HYATT VACATION CLUB; HYATT HOTELS MANAGEMENT CORPORATION; HYATT PLACE FRANCHISING, L.L.C.; KNIGHTS FRANCHISE SYSTEMS, INC. D/B/A KNIGHTS INN; MICROTEL INNS AND SUITES FRANCHISING, INC. D/B/A MICROTEL INN & SUITES; NATIONAL CAR RENTAL SYSTEM, INC.; NORTH AMERICA SOFITEL CORP.; OMNI HOTELS CORP.; PAYLESS RENTAL CAR SYSTEM, INC.; RAMADA WORLDWIDE INC.; RED LION HOTELS CORP.; RED LION HOTELS HOLDINGS, INC.; RED LION HOTELS MANAGEMENT, INC.; RED LION PROPERTIES, INC.; SELECT HOTELS GROUP, L.L.C D/B/A HYATT PLACE; SUPER 8 WORLDWIDE, INC.; THRIFTY, INC. D/B/A THRIFTY CAR RENTAL; TRAVELODGE HOTELS, INC.; TRT DEVELOPMENT CO.; TRT HOLDINGS, INC.; TRYP HOTELS WORLDWIDE, INC.; U.S. FRANCHISE SYSTEMS, INC.; VANGUARD CAR RENTAL USA, LLC D/B/A ALAMO RENT A CAR D/B/A NATIONAL CAR RENTAL; WESTHEIMER HOTEL LP D/B/A HOTEL DEREK; WINGATE INNS INTERNATIONAL, INC.; WYNDHAM HOTEL GROUP, LLC; WYNDHAM HOTELS AND RESORTS, LLC; WYNDHAM VACATION RESORTS, INC. and WYNDHAM WORLDWIDE CORP. (collectively “Defendants”), as follows:

PARTIES

1. Plaintiff VARIANT HOLDINGS, LLC has a place of business in Charlestown, Nevis.

2. Plaintiff VARIANT, INC. has a place of business in McFarland, Wisconsin. Hereinafter, VARIANT HOLDINGS, L.L.C. and VARIANT, INC. are collectively referred to as “VARIANT.”

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). On information and belief, the Defendants are subject to this Court’s specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including related to the infringements alleged herein. Further, on information and belief, Defendants have interactive websites comprising infringing methods and apparatuses which are at least used in and/or accessible in this forum. Further, on information and belief, Defendants are subject to the Court’s general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in Texas.

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Without limitation, on information and belief, Defendants are subject to personal jurisdiction in this district. On information and belief, the Defendants are subject to this Court’s specific and general personal jurisdiction in this district, pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this district, including related to the

infringements alleged herein. Further, on information and belief, Defendants have interactive websites comprising infringing methods and apparatuses which are at least used in and/or accessible in this district. Further, on information and belief, Defendants are subject to the Court's general jurisdiction in this district, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in this district. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, the Defendants are subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including related to the infringements alleged herein. Further, on information and belief, Defendants have interactive websites comprising infringing methods and apparatuses which are at least used in and/or accessible in this forum. Further, on information and belief, Defendants are subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,624,044

6. United States Patent No. 7,624,044 (the "'044 patent"), entitled "System for marketing goods and services utilizing computerized central and remote facilities," duly and legally issued on November 24, 2009.

7. VARIANT HOLDINGS, LLC is the assignee of the '044 Patent. VARIANT, INC. is the exclusive licensee of the '044 patent. Plaintiffs have standing to bring this lawsuit for infringement of the '044 Patent.

8. The claims of the '044 Patent cover, *inter alia*, apparatuses to market and/or sell goods or services over an electronic network comprising a first computerized central communications facility adapted to be linked to a computerized remote facility and to a plurality of other computerized central communications facilities wherein at least one of said computerized central communications facilities is adapted to provide customer information regarding rentals.

9. On information and belief, all Defendants named herein have infringed the '044 patent pursuant to 35 U.S.C. § 271 through actions comprising the making, using, selling and/or offering for sale in the United States of apparatuses to market and/or sell goods or services over an electronic network comprising a first computerized central communications facility adapted to be linked to a computerized remote facility and to a plurality of other computerized central communications facilities wherein at least one of said computerized central communications facilities is adapted to provide customer information regarding rentals. On information and belief, such apparatuses comprise the Defendants' websites for hotels and/or vehicles.

10. To the extent that facts learned during the pendency of this case show that Defendants' infringement includes indirect infringement, VARIANT reserves the right to amend this complaint accordingly, and to request such a finding at time of trial.

11. To the extent that facts learned during the pendency of this case show that this is an "exceptional case," VARIANT reserves the right to amend this complaint accordingly, and to request such a finding at time of trial.

12. To the extent that facts learned during the pendency of this case show that Defendants' infringement is or has been willful, VARIANT reserves the right to amend this complaint accordingly, and to request such a finding at time of trial.

13. As a result of Defendants' infringing conduct, Defendants have damaged VARIANT. Defendants are liable to VARIANT in an amount that adequately compensates VARIANT for their infringement, which, by law, can be no less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, VARIANT respectfully requests that this Court enter:

1. A judgment in favor of VARIANT that Defendants have infringed the '044 patent;
2. A permanent injunction enjoining Defendants, and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '044 patent;
3. A judgment and order requiring Defendants to pay VARIANT its damages, costs, expenses, fees and prejudgment and post-judgment interest for Defendants' infringement of the '044 patent as provided under 35 U.S.C. §§ 284 and/or 285; and
4. Any and all other relief to which VARIANT may show itself to be entitled.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, VARIANT requests a trial by jury of any issues so triable by right.

September 15, 2011

Respectfully submitted,

COLLINS, EDMONDS & POGORZELSKI, PLLC

By: /s/ John J. Edmonds

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